REMARKS

This responds to the Office Action mailed on June 27, 2008.

Claims 1 to 9, 11, 21, and 22 are amended, claims 10 and 20 are canceled, and no claims are added; as a result, claims 1to 9, 11 to 19, and 21 to 22 are now pending in this application.

§101 Rejection of the Claims

Claims 1-10 were rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. The Examiner stated that "The term 'module' is not recited as having corresponding structure in the specification and given its broadest reasonable interpretation can be construed as nothing more than program code. Therefore the claims are directed to nothing more than a program code per se and are non-statutory." In response, Applicants have amended claims 1 to 10 to clarify that a "computer-implemented system" is being claimed. Since a computer-implemented system is being claimed (and not just program code per se), the claims now cover patentable subject matter. Withdrawal of the rejection under 35 U.S.C. § 101 is respectfully requested.

§112 Rejection of the Claims

Claims 1-22 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With regard to claims 1, 11, 21, and 22, the Examiner objected to the limitations "automatically compute peer information associated with a second plurality of sellers, wherein the first plurality of sellers includes the second plurality of sellers, and wherein the peer information is automatically computed from attribute information for the second plurality of sellers; and automatically compare the peer information associated with the second plurality of sellers with attribute information for the first seller". Applicants have amended this limitation within these claims to clarify the language. Applicants respectfully submit that the amended

claim language is now particularly points out and distinctly claims the subject matter which applicant regards as the invention.

With regard to claims 10 and 20, the examiner objected to the limitation "compare first attribute information associated for a first period of time to second attribute information for a second period of time to determine if the first seller is included in the first plurality of sellers, wherein the first and second attribute information is associated with the first seller". Applicants have cancelled claims 10 and 20 thus making the rejection to these claims moot.

§102 and §103 Rejections of the Claims

Claims 1-3, 5, 8, 10-13, 15, 18 and 20-22 were rejected under 35 U.S.C. § 102(e) for anticipation by Harding et al. (U.S. Publication No. 2005/0144052, hereinafter referred to as the Harding reference). Claims 4 and 14 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Cheng et al. (U.S. Publication No. 2002/0059130, hereinafter referred to as the Cheng reference). Claims 6-7 and 16-17 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Harding in view of an Amazon.com (2002) publication, hereinafter referred to as the Amazon reference. Claims 9 and 19 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Harding.

The main reference cited by the Examiner is the Harding reference. The Harding reference discloses a system for profiling item sellers to inform item purchasing decisions and build trust in a multiple-seller marketplace. As set forth in paragraphs [0029] to [0031], the system of the Harding reference maintains various scores for sellers. Step **604** in **Figure 6** of the Harding reference specifies that "based upon a determined score, determine whether seller is a recommended seller". This is more explicitly set forth in paragraph [0042] that states:

[0042] In step 604, based upon the score determined in step 603, the facility determines whether the seller should be designated as an recommended seller. In some embodiments, **this involves comparing the score determined for the seller to a minimum seller score threshold. For example, where the facility utilizes a seller score threshold of 80, those sellers having scores greater than 80 (or, alternatively, greater than or equal to 80) are designated as recommended sellers.** In step 605, the facility loops back to step 602 to process the next seller. In step 606, the facility loops back to step 601 through repeat the process of rating the sellers at a future time.

(Emphasis added)

In the system of the <u>Harding</u> reference, the determination of whether one is a 'recommended seller' is made by a simple comparison with a fixed threshold. Such a simple rule-based system is the type of system that the system of the present application improves upon. In fact, the background of the present application specifically noted the short-comings of such systems:

> One approach for identifying outlying behavior has been to establish a rules base system. The behavior of buyers and sellers are compared against the rules to detect outlying behavior. Operators will usually have some immediate success with such systems but have found, by experience, that the effectiveness of a rules base system will typically diminish with time. For example, a rules based system to identify fraudulent activity will decrease in effectiveness as the perpetrators of the fraudulent activity become aware of the rules and adjust their behavior to avoid detection."

To improve upon prior systems, the present application introduced a relative based system that compares a seller to its peers. In the claimed system, a set of seller attributes are first collected. The attributes are then computed to created a peer information that describes the general behavior of sellers. To analyze a specific seller, the attributes associated with that seller are then compared against the peer information to detect if that seller is an outlier. These steps of collecting seller attributes, computing peer information, and comparing the attributes of specific seller against the peer information are in all of the independent claims. Since the <u>Harding</u> reference fails to disclose the relative system based upon comparing a seller to its peers, the present invention, as claimed in the amended claims, is allowable over the <u>Harding</u> reference. Furthermore, neither the <u>Cheng</u> nor the <u>Amazon</u> references cited by Examiner disclose this relative system based upon comparing a seller to its peers. The dependent claims include all of the limitations of the independent claims and are thus likewise allowable.
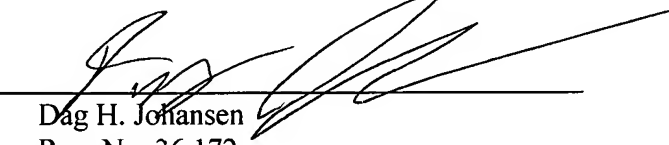
CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's representative at (408) 278-4058 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. Box 2938
Minneapolis, MN 55402
(408) 278-4058

Date ___9/29/08___   By _____

Dag H. Johansen
Reg. No. 36,172

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this ___29___ day of August, 2008.

___Dag Johansen___   _____
Name   Signature